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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,490	02/14/2005	Guido Krabbe	05579-00339-US	8644
23416 7590 10/30/2007 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899			EXAMINER HURLEY, SHAUN R	
			ART UNIT 3765	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/524,490

Applicant(s)

KRABBE ET AL.

Examiner

Shaun R. Hurley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/14/05, 03/22/05.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. In regards to the IDS filed 22 March 2005, Examiner has NOT considered the cited non-patent literature because it is in a foreign language. While the art may be cited in the specification, such recitation does not aid examiner in its consideration. Further, Applicant is including information in his specification therefrom by reference, and if such information is going to be considered part of the specification, then it must be in proper English to be considered.

### ***Claim Objections***

2. Claims 2 and 11 are objected to because of the following informalities:

In regards to claim 2, as currently written, the optional pigments are not in proper alternative (or) condition.

In regards to claim 11, the multiple references to claim 1 are improper.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, printing the camouflage pattern on the textile material comprising only spun-dyed aramid fibers is not possible. As written, Applicant has provided for a possible

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situation where the invention is inoperable, and as such, it is unclear how one of ordinary skill in the art would be able to replicate the invention without undue experimentation.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mach et al (2001/0004780) in view of Cates et al (4981488).

Mach teaches a textile fiber material comprising spun dyed synthetic fibers in combination with undyed cellulosic fibers for producing military camouflage articles, wherein the synthetic fibers are spun-dyed with a colorant having a chlorophyll-like reflectance in the IR region, and wherein the article is printed to dye the undyed cellulose fibers (Abstract). Mach also teaches the printing dyes used (paragraph 18). While Mach essentially teaches the invention as detailed, he fails to specifically teach using spun-dyed aramid fibers, which Cates teaches us are well known in the art (Column 4, lines 5-11). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have utilized such spun-dyed fibers, so as to increase strength and flame resistance. The ordinarily skilled artisan would have appreciated the benefits of such aramid use and known to do so, so as to improve the overall abilities of the military article, expanding its possible uses. Likewise, the pigments used to spun (solution) dye the aramid are well known in the art. The ordinarily skilled artisan understands that solution-dyeing aramids involves pigments, and solvents, because the process is not new. Likewise, if

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aramids are utilized to provide flame resistance, flame resistant cellulosic fibers would be used, so as to better resist burning.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R. Hurley whose telephone number is (571) 272-4986.

The examiner can normally be reached on Mon - Fri, 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Shaun R Hurley  
Primary Examiner  
Art Unit 3765

SRH  
19 October 2007